

1 **COVID-19 WORKERS' COMPENSATION MODIFICATIONS**

2 2020 FIFTH SPECIAL SESSION

3 STATE OF UTAH

4 

---

---

  
5 **LONG TITLE**

6 **General Description:**

7 This bill modifies provisions related to workers' compensation coverage for first  
8 responders.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ moves provisions related to coverage for first responders diagnosed with COVID-19
- 12 from the Workers' Compensation Act to the Utah Occupational Disease Act;
- 13 ▶ modifies the definition of a first responder; and
- 14 ▶ makes technical and conforming changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill provides a special effective date.

19 **Utah Code Sections Affected:**

20 **RENUMBERS AND AMENDS:**

21 **34A-3-201**, (Renumbered from 34A-2-1101, as enacted by Laws of Utah 2020, Third  
22 Special Session, Chapter 6)

23 **34A-3-202**, (Renumbered from 34A-2-1102, as enacted by Laws of Utah 2020, Third  
24 Special Session, Chapter 6)

25 **34A-3-203**, (Renumbered from 34A-2-1103, as enacted by Laws of Utah 2020, Third  
26 Special Session, Chapter 6)

27 **34A-3-204**, (Renumbered from 34A-2-1104, as enacted by Laws of Utah 2020, Third  
28 Special Session, Chapter 6)

29 **34A-3-205**, (Renumbered from 34A-2-1105, as enacted by Laws of Utah 2020, Third  
30 Special Session, Chapter 6)

31 **34A-3-206**, (Renumbered from 34A-2-1106, as enacted by Laws of Utah 2020, Third  
32 Special Session, Chapter 6)

33

---

---

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **34A-3-201**, which is renumbered from Section 34A-2-1101 is  
36 renumbered and amended to read:

37 ~~[34A-2-1101].~~ **34A-3-201. Definitions.**

38 (1) As used in this part:

39 (a) "COVID-19" means the disease caused by severe acute respiratory syndrome  
40 coronavirus 2.

41 (b) "First responder" means:

42 [~~(i) an emergency responder as defined in 29 C.F.R. Part 826, Subpart C; or]~~

43 [~~(ii) a health care provider as defined in 29 C.F.R. Part 826, Subpart C.]~~

44 (i) a first responder as defined in Section 34A-2-102; or

45 (ii) an individual employed by:

46 (A) a health care facility as defined in Section 26-21-2;

47 (B) an office of a physician or dentist;

48 (C) a local health department;

49 (D) a nursing home;

50 (E) a retirement facility;

51 (F) a home health care provider;

52 (G) a pharmacy;

53 (H) a facility that performs laboratory or medical testing on human specimens; or

54 (I) an entity similar to the entities listed in Subsections (1)(b)(ii)(A) through (H).

55 (c) "Physician" means an individual licensed under:

56 (i) Title 58, Chapter 67, Utah Medical Practice Act;

57 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

58 (iii) Title 58, Chapter 70a, Utah Physician Assistant Act; or

59 (iv) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice registered  
60 nurse.

61 (2) For purposes of this part, an individual is diagnosed with COVID-19 if the  
62 individual:

63 (a) through laboratory testing of a specimen the individual provides, tests positive for

64 the virus that causes COVID-19; and

65 (b) is diagnosed with COVID-19 by a physician.

66 Section 2. Section **34A-3-202**, which is renumbered from Section 34A-2-1102 is  
67 renumbered and amended to read:

68 ~~[34A-2-1102]~~. **34A-3-202. Workers' compensation presumption for first**  
69 **responders.**

70 (1) A first responder who claims to have contracted COVID-19 during the performance  
71 of the first responder's duties as a first responder, is presumed to have contracted COVID-19  
72 [~~by accident~~] during the course of performing the first responder's duties as a first responder if  
73 the first responder is diagnosed with COVID-19:

74 (a) while employed or serving as a first responder; or

75 (b) if the first responder's employment or service as a first responder terminates, within  
76 two weeks after the day on which the first responder's employment or service terminates.

77 (2) A first responder who makes a claim under this part shall provide [~~a copy of the~~  
78 ~~positive laboratory test or the~~] written documentation of a [~~physician's~~] COVID-19 diagnosis to  
79 the first responder's employer or insurer.

80 Section 3. Section **34A-3-203**, which is renumbered from Section 34A-2-1103 is  
81 renumbered and amended to read:

82 ~~[34A-2-1103]~~. **34A-3-203. Workers' compensation claims.**

83 (1) This part applies to a claim resulting from an [~~accident~~] exposure arising out of and  
84 in the course of a first responder's employment or service on or after March 21, 2020, and  
85 before June 1, 2021.

86 (2) For purposes of establishing a workers' compensation claim under this part, the  
87 ["]date of [~~accident~~] exposure is presumed to be the earlier of the day on which:

88 (a) the first responder is diagnosed with COVID-19;

89 (b) the first responder is unable to work because of a symptom of a disease that is later  
90 diagnosed as COVID-19; or

91 (c) the first responder's employment or service as a first responder terminates, if the  
92 first responder is diagnosed with COVID-19 within two weeks after the day on which the first  
93 responder's employment or service as a first responder terminates.

94 (3) Death benefits payable under this chapter are payable only if a claimant establishes

95 by competent evidence that death was a consequence of or a result of COVID-19.

96 Section 4. Section **34A-3-204**, which is renumbered from Section 34A-2-1104 is  
97 renumbered and amended to read:

98 ~~**34A-2-1104**~~. **34A-3-204. Failure to be tested -- Rebuttable presumption.**

99 (1) A first responder who refuses examination for COVID-19 or fails to be diagnosed  
100 with COVID-19 is not entitled to the presumption established under this part.

101 (2) The presumption established ~~[in]~~ under this part may be rebutted by a  
102 preponderance of the evidence.

103 Section 5. Section **34A-3-205**, which is renumbered from Section 34A-2-1105 is  
104 renumbered and amended to read:

105 ~~**34A-2-1105**~~. **34A-3-205. Determining employers of first responders --**  
106 **Volunteer first responders -- Workers' compensation premiums.**

107 (1) For purposes of receiving workers' compensation benefits, a first responder  
108 performing the services of a first responder is considered an employee of an entity for whom  
109 the first responder provides those services.

110 (2) (a) A first responder who only performs the services of a first responder for  
111 minimal or no compensation or on a volunteer basis receives an amount of workers'  
112 compensation:

113 (i) based on the first responder's primary employment, if the first responder is primarily  
114 employed other than as a first responder; or

115 (ii) ~~[that is the minimum benefit]~~ based on the state minimum wage, if the first  
116 responder has no employment other than as a first responder.

117 (b) An entity for whom a first responder provides first responder services for minimal  
118 or no compensation or on a volunteer basis shall:

119 (i) pay any excess premium necessary for workers' compensation, if the first responder  
120 is primarily employed other than as a first responder; and

121 (ii) pay any premium necessary for workers' compensation, if the first responder has no  
122 employment other than as a first responder.

123 (3) A first responder is not precluded from utilizing insurance a primary employer  
124 provides, or any other insurance benefits, in addition to workers' compensation benefits.

125 Section 6. Section **34A-3-206**, which is renumbered from Section 34A-2-1106 is

126 renumbered and amended to read:

127 ~~[34A-2-1106]~~. **34A-3-206. Construction -- Rulemaking authority.**

128 (1) This part supersedes any conflicting [~~provisions~~] provision of Utah law.

129 (2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah  
130 Administrative Rulemaking Act, to carry out the provisions of this part.

131 Section 7. **Effective date.**

132 If approved by two-thirds of all the members elected to each house, this bill takes effect  
133 upon approval by the governor, or the day following the constitutional time limit of Utah  
134 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
135 the date of veto override.